

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66193 of 2024

Arising Out of PS. Case No.-4 Year-2024 Thana- C.B.I CASE District- Patna

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Anup Shankar Sahay S/o- Shri Abhay Shankar Sahay Resident of flat no 301
Raghunandan lok Anuragh narayan P.S- Kadankuan, Dist- Patna

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. C.B.I. Patna/Delhi Patna/Delhi

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Vishal Vikram Rana, Advocate
		Mr. Aditya Singh, Advocate
		Ms. Misha Bharti, Advocate
		Mr. Zeeshan Khan, Advocate
For the Opposite Party/s :		Mr. Harendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

8 05-06-2025 Heard Learned Counsel for the petitioner and

Learned Counsel for the State.

2. No one appears on behalf of the CBI in this case

but the In-charge Public Prosecutor for the State of Bihar with

the help of counter affidavit filed by the CBI has argued this

case after permission granted by this Court.

3. The present criminal miscellaneous application

no.66193 of 2024 has been filed under Sections 483 and 484 of

the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter

referred to as ‘the BNSS, 2023’) for grant of regular bail to the

petitioner who is in custody in connection with Special

(POSCSO) Case No.151 of 2024, arising out of RC-



04(S)/2024/CBI/ SC- III/ ND lodged on 10.06.2024, under Section 67B of the I.T. Act and Section 120B of the Indian Penal Code.

4. As per the prosecution, the allegation against the petitioner is that the user of Mobile Nos.+918789741011 and +919708747437 and e-mail Id- sundot301@gmail.com and dotsun301@gmail.com i.e. Anup Shankar Sahay, the petitioner and other accused are alleged to have involved in sexual abuse of minor in publishing/ collection/ transmission/strong material depicting children in sexually explicit act in electronic form over the internet and in this way the allegation of commission of an offence under Section 67B of the IT Act read with Section 120B of the IPC and substantive offence has been alleged in the FIR. Subsequently, the Govt. of Bihar through its Home Department have accorded requisites under Section 6 and 5 of the Delhi Special Police Establishment Act, 1946 respectively to CBI for investigation of the said case and thereafter a regular case is registered against the petitioner and one other co-accused.

5. Learned Counsel for the petitioner submits that petitioner is innocent and has committed no offence. He has been wrongly implicated in the present case. Counsel submits



that petitioner was in no way connected with the said offence. The allegation levelled against the petitioner is completely false and fabricated as there is no evidence to support the claim of the prosecution. It has been alleged that the petitioner and other co-accused have conspired together. Counsel submits that petitioner has no prior contact or knowledge about the co-accused. He is in judicial custody since 19.06.2024. It has nowhere specified in the FIR that he has committed sexual assault against the minor. It has been submitted by the Counsel for the petitioner that petitioner is in custody in complete violation of petitioners right to life and liberty as he has been arrested on the basis of information derived from undisclosed source and prosecution under serious offence of POCSO Act made against him is a sheer abuse of the process of law. Counsel submits that petitioner is self-esteemed person and there is no stigma against the accused throughout his life. He is ready to cooperate in the investigation. Counsel further submits that petitioner undertakes that he would keep himself away from minor victim and will not in any way cause any impediment in the continuation of the investigation. Counsel submits that in the statement under section 164 of Cr.PC the minor has named one Umesh Shah in whose house the mother of the victim was working. Counsel



submits that under Section 161 of Cr.PC, the name of the petitioner has come but under Section 164 of Cr.PC victim has taken name of one Umesh Shah. He further submits that it has falsely been alleged that the victim has been sexually exploited since 2021, there was no information or complaint made by the police or anyone else and it has come only through the CBI. Counsel further submits that petitioner is ready to cooperate in the investigation. It has also been submitted by the Counsel that petitioner has strong medical ground for consideration of bail on medical ground. It is stated that the right hand of the petitioner does not work properly from last several years. He has severe pain in the back/waist and knee so much that once seated he can not stand. The petitioner is under specialized treatment for glaucoma and needs medical care of specialist doctor to treat his ailment of the eye. Counsel further submits that due to inadvertent mistake the doctor's report though attached in the writ petition but could not be mentioned in the pleading. He submits that from the doctor's report it transpires that medicine of glaucoma is going on continuously. Counsel submits that the age of the petitioner is 68 years. He is old aged person and in a deep rooted conspiracy his name has figured in this case. Counsel submits that his age may be taken into consideration



and a sympathetic view may be taken against the petitioner.

6. Counsel for the State, on the other hand, opposes the bail application and submits that in this case a counter affidavit has been filed on behalf of the CBI wherein it has stated that during investigation the named email ID mentioned in the FIR was being operated by the accused petitioner using seized mobile handsets. The multimedia file is stored in google photo of e-mail ID were checked and ten media files were found available in the google photo with regard to child sexual abuse material. Counsel for the State further submits that on the basis of statement of victim, Section 8 read with Sections 7, 10, 9 (1), 12, 11(II)(IV) and 14 and 13 of the POCSO Act, 2012 were added in this case in addition to the case lodged under Section IT Act and Indian Penal Code. Counsel for State further submits that in para-18 of the counter affidavit it has been categorically mentioned by the CBI that after conclusion of the investigation chargesheet under Sections 8, 7, 10, 9(1), 12, 11(II)(V), 14 and 13 of the POCSO Act read with Section 67B of the IT Act has been filed. Cognizance has been taken and prosecution evidence has started. He submits that examination of some of the prosecution witnesses has taken place. Counsel also submits that during investigation the child sexual abuse material of the



victim is available in the mobile phone of the accused in the form of video/images.

7. In the present facts and circumstances, this Court is not inclined to grant bail to the petitioner. Hence, the bail application of the petitioner is hereby rejected.

8. However, considering his old age, this Court only grants liberty that if the trial shall not be concluded within one year from today then petitioner shall be at liberty to move for regular bail.

(Dr. Anshuman, J)

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